

Jeanette Jennings 30(b)(6) 12/19/2007
Philip Wong, et al. v. HSBC Mortgage Corporation, et al.

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JAN 03 2008

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LITTLER MENDELSON

PHILIP WONG, FREDERIC)
CHAUSSY, and LESLIE MARIE)
SHEARN, individually, on)
behalf of all others)
similarly situated, and)
on behalf of the general)
public,)

COPY

Plaintiffs,)

vs.)

No. 3:07-cv-2446 MMC

HSBC MORTGAGE CORPORATION)
(USA); HSBC BANK USA,)
N.A.; and DOES 1 through)
50, inclusive,)

Defendants.)

30(b)(6) VIDEOTAPED DEPOSITION OF
JEANETTE JENNINGS

Taken December 19, 2007

Commencing at 9:08 a.m.

REPORTED BY: MELANIE L. HUMPHREY-SONNTAG, RDR, CRR, CSR
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1 one of our colleagues to assist us. That's rare but
2 it's usually when we have an uptick in hiring, but
3 that is -- that is very rare. I can't say -- name
4 just anyone because it could be anyone to assist us.

5 Q. Now, what are you typically looking for in
6 a -- a loan officer that you're seeking to -- a loan
7 officer vacancy that you're seeking to fill?

8 A. You mean skills? What exactly -- what do
9 you mean? I'm looking for them --

10 Q. What criteria do you have? Yeah.

11 A. As far as a loan officer, typically what
12 we're looking for, obviously, is having some
13 industry experience. It would also depend upon the
14 manager. The manager may say, "I'm willing to train
15 on that mortgage experience. I'm looking for
16 someone who has certain behaviors, retail
17 experience, sales experience," that kind of thing.

18 But predominantly, if we're looking at -- on
19 average, it would be someone who has retail-type
20 sales experience, whether in financial services
21 industry or within mortgage industry.

22 And, obviously, appear to have been
23 successful in doing so.

24 Q. The primary thing that you'd be looking for
25 would be somebody who has demonstrated or who you

1 believe would be a good salesperson?

2 A. Having a true entrepreneurial spirit, that's
3 right.

4 Q. Entrepreneurial spirit?

5 A. Uh-huh.

6 Q. How do you differentiate that from a good --
7 good sales -- good potential as a salesperson?

8 A. I would differentiate between the two, as
9 far as being a good salesperson -- one is someone
10 who is able to counsel their employee -- excuse me,
11 their -- their customers, provide the right advice,
12 doing all of the right things in order to make sure
13 the sale is -- is -- is closed and it goes through
14 successfully.

15 As far as an entrepreneurial, having that
16 spirit, is making sure they're surrounding
17 themselves with the right centers of influence,
18 they're seeking out -- in this case of loan
19 consultants, are they visiting the Realtors? Are
20 they visiting the accountants? Are they visiting
21 attorneys? anyone who would be able to give them
22 those referrals, as well as visiting the branches,
23 making sure that -- "Hey, you know, I'm referring
24 business to you. All right. How can I assist you?"
25 You know, making sure that those relationships are

1 maintained.

2 So it's -- relationship manager type of
3 entrepreneurial is also what we would -- we would
4 expect because that is the expectation.

5 So that's how I would differentiate between,
6 you know, sales -- you have to have that to be the
7 entrepreneur, but the entrepreneur is also knowing
8 what needs to be done and going out to do that, to
9 build my business.

10 Q. Now, these employees, the loan officers,
11 would acquire their skill by experience, rather than
12 by some advanced, specialized intellectual or
13 academic instruction; correct?

14 A. I'm -- I'm not quite -- I'm not quite sure
15 of your question. Can you clarify?

16 Q. That the -- that the loan officers would
17 acquire their skill -- they would hone their loan
18 officer abilities by experience, as opposed to by
19 advanced, specialized academic or intellectual
20 instruction?

21 A. I would disagree. I would think it would be
22 both. All right. Some who have -- if you have
23 the -- the advanced degrees, if you will --
24 obviously, with finance and understanding that --
25 that also -- that's also a help.

1 customers, not the loan officers' customers, so they
2 can't sell away, they can't solicit, that kind of
3 thing.

4 As far as -- there's additional information
5 regarding exclusions, such as following our
6 statement of principle and business ethics. If they
7 aren't -- that they can't accept gifts over a
8 certain dollar amount, according to policies,
9 anything that -- that kind of thing that follows our
10 North American policies that they can't accept.

11 So those are offhand -- and, again, I'm
12 speaking in only general terms because I don't have
13 the newest and latest version with me.

14 But the overall -- if I might add, the
15 overall premise and meat of it as to how they're
16 paid is -- has pretty much remained the same.

17 Q. How do you decide, for a particular loan
18 officer, how long they are salaried before they go
19 to a recoverable draw system?

20 A. Well, first, they're not salaried. All
21 right? And we have a draw policy, and, typically,
22 it is a six-month time period that is a
23 nonrecoverable draw. So it's forgiven.

24 If it's anything beyond that, it would
25 depend upon the individual, their knowledge, their

1 skills, their experience in the industry, what they
2 can bring forward to us as -- as additional
3 guaranteed loans, but that is rare, and it's
4 considered an exception if it's beyond the six
5 months.

6 There would have to be a case-by-case
7 scenario on each one.

8 Q. The typical six-month nonrecoverable draw,
9 you said it's not a salary. What difference, if
10 any, is there between a salary and the
11 nonrecoverable draw?

12 MS. BARRETT: Objection; calls for a
13 legal analysis and conclusion.

14 MR. SCHWARTZ: Go ahead.

15 A. I -- I just don't -- they're not salaried
16 employees, which would possibly put them in a
17 different class. They're a commissioned employee,
18 so they would, in other words, receive commissions
19 on top of that draw while it's forgiven for the
20 first six months or whatever that time period is.

21 BY MR. SCHWARTZ:

22 Q. Okay. But they get a -- for -- typically
23 for the first six months, sometimes longer in
24 special cases, they get a base -- they get a base
25 pay -- if you want to call it a salary or

1 nonrecoverable draw or whatever it is, it's a base
2 pay that they're going to get, regardless of what
3 sales they do?

4 A. That's correct.

5 I do want to clarify that further. There --
6 that draw continues as a regular biweekly pay, just
7 like any other employee within North America.

8 So, in other words, they're prepaid their
9 commissions. So if I earn -- as an example, I've --
10 I'm paid 4,000 -- or \$2,000 biweekly, but in that
11 month I had 5,000 in commissions, then I am due, at
12 the end of the month, an additional \$1,000 for
13 commissions. All right?

14 On the other hand of that, being a
15 commissioned employee, if I've gone beyond my
16 forgivable -- forgiveness period, if I've earned
17 only 3,000 but I was paid 4,000, then I turn into a
18 deficit, and that deficit would come out of any
19 future commissioned earnings.

20 And they receive monthly statements, you
21 know, from finance detailing all of the commissions
22 paid.

23 Q. Did there come a time when you changed the
24 commission system -- or commission -- sorry --
25 the -- the base pay system such that the loan

1 officers are only receiving \$23,000 a year as -- as
2 a base?

3 A. As part of the draw policy, it -- the draw
4 is based upon the individual -- all right? -- and
5 there is a tier based upon loan production.

6 So if I'm earning historically enough
7 fundings that I can have a hundred-thousand-dollar
8 draw, well, then I can have a hundred-thousand-
9 dollar draw.

10 If I'm not and my draw doesn't support that,
11 the minimum draw is the -- the Federal minimum, the
12 23, what, 660? I can't remember the exact numbers
13 but in the \$23,000 annual range.

14 But they're notified in advance that "Your
15 draw can change at the end of the six months,"
16 whatever that period is.

17 And if they aren't meeting the minimum
18 production, their manager should be having
19 conversations with them, and they would know by
20 their own monthly statements that they're not
21 meeting the minimum production standards.

22 Q. Loan officers, as -- as you said, will be in
23 a deficit situation if they -- after the . . . the
24 first six months typically -- if they don't fund
25 enough loans to pay for the -- the draw.

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1 Do they have -- they then have to pay that
2 money back to the company?

3 A. Well, as I stated, if they are in a deficit
4 period, it would come out of any future commissions.

5 So the next month I might very well make
6 that up. I might make -- do that 5,000.

7 So the thousand dollars I was a deficit
8 from, then I've broken even. I've earned my 4,000
9 because, again, your commissions are being prepaid.
10 We prepay the draw, so that's really what that is.

11 So if I didn't make it and I only made
12 enough to recover 500, well, then, the next month
13 that would carry over; it would come off of those
14 future commissions.

15 Q. Right. But the month that you failed to
16 produce enough loans, you could -- you could be paid
17 zero and receive a -- a check that says "Negative a
18 thousand"?

19 A. No.

20 Q. No?

21 A. No. They receive their biweekly draw.
22 Despite the fact of whatever they -- they've earned,
23 they are going to receive a biweekly draw.

24 Q. So you're saying, no matter what deficit an
25 employee is carrying, they're receiving their

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1 A. Uh-huh.

2 Q. Are you aware that loan officers are -- have
3 required attendance at HSBC facilities?

4 A. For meetings or -- I'm not sure --

5 Q. That they're required to report -- that loan
6 officers are required to report to HSBC's facilities
7 on a regular basis.

8 A. "HSBC's facilities" is pretty broad. If
9 it's a regular basis for a monthly meeting,
10 quarterly meeting -- I'm not sure -- if it's a
11 day-to-day basis, no, they shouldn't be required to
12 be doing that.

13 Because, again, the branch is only one piece
14 of their referral source. Do they have to let that
15 branch know where they are so that appointments can
16 be made for them? Sure. But for them to be
17 physically at that location, in presence, eight
18 hours a day, no, that is not a requirement.

19 MR. SCHWARTZ: I'll show you a
20 document, Exhibit 4. This was previously marked by
21 Defendant MORT 174.

22 (The document was thereupon
23 marked Deposition Exhibit
24 No. 4 for identification as of
25 December 19, 2007.)

1 BY MR. SCHWARTZ:

2 Q. Have you ever seen this document or a
3 document of this nature before?

4 A. No.

5 Q. Okay.

6 A. Excuse me. Other than reviewing it in Sue
7 Marczak's deposition.

8 Q. Okay.

9 A. But prior to that, no.

10 Q. You did review it prior to the deposition
11 today, though?

12 A. Yeah.

13 Q. Okay. So you knew that, in fact, loan
14 officers -- and this is just an example -- are
15 required to attend at HSBC Bank branches on a daily
16 basis here, as exhibited here in Exhibit 4?

17 MS. BARRETT: Objection. The document
18 speaks for itself.

19 A. I would say this is -- this would
20 identify -- and in looking at this -- that you have
21 to have coverage for a branch. Let me explain.

22 Our loan officers -- the bank is the
23 customer of the mortgage corporation. We're
24 servicing their customers.

25 So if I'm given three branches that are part

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1 of my territory that I'm covering, that would be
2 indicated so that my branches know who to call and
3 when to call. And, if I'm out of the office -- oh,
4 and there's another loan officer to assist you --
5 that's all this identifies to me. This is stating
6 that you have to have branch coverage but not that
7 you have to be physically there.

8 I would dispute that.

9 If I can continue to clarify --

10 BY MR. SCHWARTZ:

11 Q. No. I don't think there's a question
12 pending.

13 So I -- just to -- the question I have is,
14 so it's your testimony that -- that the managers in
15 the mortgage division do not require their employees
16 to be physically present at the HSBC branches?

17 MS. BARRETT: Objection; misstates
18 testimony.

19 A. That the loan officers -- and -- and I can
20 testify that I've also recruited some of these loan
21 officers, not Philip Wong or Frederic by any means.
22 But part of that recruitment process and
23 interviewing process is that they are entrepreneurs,
24 that the branch is just one piece of their referral
25 source.

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1 were -- but it's not your testimony they were told
2 that they should be spending more than 50 percent of
3 their time outside of the branch?

4 A. As I stated before, we don't say how much
5 percentage that they should be out; they should not
6 be tied to the branch.

7 Q. Okay.

8 A. The expectation is they don't have to be
9 there and shouldn't be there eight hours a day every
10 day. That is just one referral source.

11 Q. Do you know to what extent, if any, loan
12 officers are told that their primary responsibility
13 is to the branch?

14 A. I -- I couldn't comment to that. Sales
15 managers -- it depends upon the territory.

16 Q. And the . . . the term "outside sales," what
17 conversations did you use that term in with -- you
18 said you -- you've used that in conversations with
19 the loan officers.

20 A. It . . . just reclarifying that you're
21 outside salespeople. You're entrepreneurs, you're
22 commissioned a sales force, and again, hence,
23 that -- it's implied just by the term of
24 "commissioned sales force" and how they're paid.

25 What -- when and how I used it -- I use it

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1 And that is then chunked down based upon
2 geographics and regions -- I don't get involved into
3 that process -- and from there, based upon like
4 regions, what are the minimum standards that
5 everyone needs to meet.

6 And, yes, there is a minimum standard that
7 loan officers need to meet. What that is, I'd have
8 to look back at their annual review because it's
9 inserted into their annual review process --

10 Q. That would be --

11 A. -- and as part of their business plan.

12 Q. Right.

13 A. Excuse me.

14 Q. And that would be -- David Gates would --
15 would be the person who would be involved in
16 figuring out what the actual numbers were for --

17 A. Yes.

18 Q. -- for -- sorry -- the actual numbers were
19 for sales targets for the loan officers?

20 A. Yes.

21 Q. But in terms of the overall structure of the
22 performance accountability and assessment, that
23 would be the same formula for each position
24 nationwide?

25 A. For the core responsibilities, yes. If

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1 there's anything beyond that, just as my own
2 position -- my manager and I may set , "Oh, and, by
3 the way, I'm giving you some additional things that
4 I require of you this year --"

5 Q. Right.

6 A. "-- in addition to these," so that might be
7 also between manager and the employee, as well..

8 Q. Right.

9 A. But the core, yes, they're the same
10 nationwide.

11 Q. Right. And then, likewise, there's a . . .
12 there's a national protocol with respect to how
13 employees are disciplined; is that right?

14 A. We have a performance management process, yeah.

15 Q. Could you describe your performance
16 management process.

17 A. Well, the overall performance management
18 process -- there -- there are certain steps. Now,
19 depending upon what the infraction is that that
20 person's being disciplined, all those steps may or
21 may not have to be followed.

22 So, obviously, if it's a regular performance
23 issue, we would begin with, obviously -- there would
24 be verbal discussions ahead of time. My manager, if
25 I'm not meeting my goals, would be having a

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1 STATE OF ILLINOIS)
) SS.

2 COUNTY OF DU PAGE)
3

4 I, Melanie L. Humphrey-Sonntag,
5 Certified Shorthand Reporter No. 084-004299, CSR,
6 RDR, CRR, FAPR, and a Notary Public in and for the
7 County of DuPage, State of Illinois, do hereby
8 certify that previous to the commencement of the
9 examination, said witness was duly sworn by me to
10 testify the truth; that the said deposition was
11 taken at the time and place aforesaid; that the
12 testimony given by said witness was reduced to
13 writing by means of shorthand and thereafter
14 transcribed into typewritten form; and that the
15 foregoing is a true, correct, and complete
16 transcript of my shorthand notes so taken as
17 aforesaid.

18 I further certify that there were present at
19 the taking of the said deposition the persons and
20 parties as indicated on the appearance page made a
21 part of this deposition.

22 I further certify that I am not counsel for
23 nor in any way related to any of the parties to this
24 suit, nor am I in any way interested in the outcome
25 thereof.

1 IN TESTIMONY WHEREOF I have hereunto set my
2 hand and affixed my Notarial Seal this 28th day of
3 December, A.D. 2007.

4

5

6


Certified Shorthand Reporter

7



Registered Diplomate Reporter

Certified Realtime Reporter

8

Fellow of the Academy of
Professional Reporters

9

10 My commission expires
 February 17, 2010

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